



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0512]

RIN 1625-AA00

Safety Zone: Skagway Harbor, Skagway, Alaska for 4th of July
Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard has established a temporary safety zone on the navigable waters within a 1000 foot radius of the fireworks launching point located on the White Pass and Yukon Railway Dock in position 59°26.70' north and 135°19.58' west in the vicinity of the mouth of the Small Boat Harbor, Skagway, Alaska, to limit access for the duration of the 4th of July Fireworks display. Persons desiring to transit within this safety zone must contact the Captain of the Port Southeast Alaska, or the designated on scene representative via VHF radio channel 16 or 13 (156.650 MHz) to receive permission.

DATES: This rule is effective on July 3, 2012 from 9:00 p.m. local time through July 10, 2012, 1:00 a.m. local time.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0512 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0512 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Patrick Drayer, Chief of Waterways Management, U.S. Coast Guard Sector Juneau; telephone (907) 463-2468, e-mail Patrick.A.Drayer@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public

interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable and contrary to the public interest since immediate action is needed to minimize potential danger to the public during the event. Any delay in the effective date of this rule would prevent this community event from occurring safely. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the temporary safety zone and on-scene Coast Guard assets will provide notice to mariners during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register because immediate action is needed to minimize potential danger to the public during the event. Any delay in the effective date of this rule would prevent this community event from occurring safely.

Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

The temporary safety zone is necessary for the safety of mariners in the vicinity of the fireworks display. The impact of this rule on commercial and recreational traffic is expected to be minimal because of the limited area and time of the safety zone.

Discussion of Rule

The Coast Guard is establishing a safety zone in the waters in the immediate vicinity of the location where the fireworks will be launched in Taiya Inlet for the City of Skagway, Alaska, sponsored 4th of July fireworks display. A no-action alternative was considered, but not employed because of the increased safety hazards posed to mariners during the fireworks display.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This rule is not a significant regulatory action because the

rule is applicable to a one-time event, and also because the temporary safety zone is limited in location and duration. The small size of the safety zone allows for mariners to safely navigate around the safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. However, this rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, anchor, or fish in a portion of the Taiya Inlet from 9:00 p.m. local time, July 3, 2012, to 1:00 a.m. local time on July 4, 2012. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons; this rule will be enforced for only a four hour period and mariners will be able to easily navigate safely around the zone by staying outside of the 1000 foot

radius of the position from which fireworks will be launched. During the effective period, we will issue maritime advisories widely available to the mariners that transit Taiya Inlet.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the

supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-

4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165 -- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165.T17-0512, to read as follows:

§ 165.T17-0512 Safety Zone: Taiya Inlet, City of Skagway, Alaska, for 4th of July Fireworks Display.

(a) Location. The following area is a safety zone: All navigable waters, from surface to bottom, of Taiya Inlet within a 1000 foot radius of position of 59°26.70'N and 135°19.58'W.

(b) Definitions. The following definition applies to this section: "Designated representative" means any commissioned,

warrant, and petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port Southeast Alaska.

(c) Regulations. (1) Under the general regulations contained in § 165.23 of this title, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Southeast Alaska or his designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the Coast Guard Captain of the Port Southeast Alaska or his designated representative.

(3) Upon being hailed by a U.S. Coast Guard vessel or designated representative by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(4) Persons desiring to enter the safety zone may request permission from the Captain of the Port Southeast Alaska via VHF Channel 16 or 13 (156.650 MHz), or via telephone at (907) 463-2990.

(5) The Coast Guard will issue a broadcast notice to mariners to advise mariners of the temporary safety zone and on-

scene Coast Guard representatives will provide notice to mariners during the event.

(d) Enforcement Period. This rule will be enforced from 9:00 p.m. local time on July 3, 2012, to 1:00 a.m. local time on July 4, 2012. If the event is postponed due to weather, the rule may be enforced on a succeeding date between July 5, 2012, and July 10, 2012. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the date change for the temporary safety zone and on-scene Coast Guard representatives will provide notice to mariners during the event.

Dated: June 7, 2012

S. W. BORNEMANN
Captain, U.S. Coast Guard
Captain of the Port Southeast Alaska

[FR Doc. 2012-16117 Filed 06/29/2012 at 8:45 am; Publication Date: 07/02/2012]